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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION

18 GOOGLE LLC,
19 Plaintiff and Counterdefendant,
20 v.
21 SONOS, INC.,
22 Defendant and Counterclaimant.

Case No. 3:20-cv-06754-WHA
Related to Case No. 3:21-cv-07559-WHA

**DECLARATION OF COLE B.
RICHTER IN SUPPORT OF
GOOGLE'S ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
ANOTHER PARTY'S MATERIAL
SHOULD BE SEALED (DKT. 537)**

1 I, Cole B. Richter, declare as follows and would so testify under oath if called upon:

2 1. I am an attorney with the law firm of Lee Sullivan Shea & Smith LLP, counsel of
 3 record to Sonos, Inc. (“Sonos”) in the above-captioned matter. I am a member in good standing
 4 of the Bar of the State of Illinois. I have been admitted *pro hac vice* in this matter. I make this
 5 declaration based on my personal knowledge, unless otherwise noted. If called, I can and will
 6 testify competently to the matters set forth herein.

7 2. I make this declaration in support of Google’s Administrative Motion to Consider
 8 Whether Another Party’s Material Should be Sealed filed on February 28, 2023 (Dkt. 537)
 9 (“Administrative Motion to Consider”), in connection with its Reply in Support of Motion for
 10 Summary Judgment (“Reply”).

11 3. Sonos seeks an order sealing the materials as listed below¹:

12 Document	13 Portions Google Sought to Be Filed Under Seal	14 Portions Sonos Seeks to Be Filed Under Seal	15 Designating Party²
16 Exhibit 2 to Google’s Reply	17 Portions outlined in red boxes	18 The entirety of paragraph 285 which is contained within the portions outlined by Google in red boxes	19 Sonos

20 4. I understand that the Ninth Circuit has recognized two different standards that may
 21 apply to a request to seal a document, the “compelling reasons” standard and the “good cause”
 22 standard. *Blessing v. Plex Sys., Inc.*, No. 21-CV-05951-PJH, 2021 WL 6064006, at *12 (N.D.
 23 Cal. Dec. 22, 2021) (citing *Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97
 24 (9th Cir. 2016)). The compelling reasons standard applies to any sealing request made in
 25 connection with a motion that is “more than tangentially related to the merits of a case.” *Id.*

26 ¹ Google’s Administrative Motion to Consider also seeks to seal Exhibits 3-5. Sonos’s advises
 27 that Exhibits 3-5 do not contain Sonos confidential information and/or material.

28 ² It appears Google’s Administrative Motion to Consider contains a typographical error. Google
 listed the designating party as “Google.” We are responding to this motion as if it intended to
 indicate “Sonos.”

1 Accordingly, I understand courts in this district apply a “compelling reasons” standard to a
 2 sealing request made in connection with a motion for summary judgment. *See, e.g., Snapkeys,*
 3 *Ltd. v. Google LLC*, No. 19-CV-02658-LHK, 2021 WL 1951250, at *2 (N.D. Cal. May 14, 2021).

4 5. I further understand that confidential technical information about product features,
 5 architecture, and development satisfies the “compelling reason” standard. *See Delphix Corp. v.*
 6 *Actifio, Inc.*, No. 13-cv-04613-BLF, 2014 WL 4145520, at *2 (N.D. Cal. Aug. 20, 2014) (finding
 7 compelling reasons to seal where court filings contained “highly sensitive information regarding
 8 [an entity’s confidential] product architecture and development”); *Guzik Tech. Enters., Inc. v. W.*
 9 *Digital Corp.*, No. 5:11-CV-03786-PSG, 2013 WL 6199629, at *4 (N.D. Cal. Nov. 27, 2013)
 10 (sealing exhibit containing “significant references to and discussion regarding the technical
 11 features” of a litigant’s products). I also understand that courts have found the compelling
 12 reasons standard satisfied where parties sought to seal “terms” that “if public, could be used by
 13 both Plaintiff’s and its partners’ competitors to give them an unfair advantage in the development
 14 and negotiations of rival products.” *Unlockd Media Inc. v. Google LLC*, 21-cv-07250-HSG, at *2
 15 (N.D. Cal. Sep. 30, 2022). Under this “compelling reasons” standard, the Court should order the
 16 above-listed documents sealed.

17 6. Paragraph 285, contained within the portions outlined in a red box by Google, contain
 18 Sonos’s confidential business information and trade secrets. Specifically, this paragraph lists the
 19 root and filenames of Sonos’s source code and further identifies where each can be found within
 20 those files. The specifics of which are confidential information that Sonos does not share
 21 publicly and is highly sensitive. Thus, public disclosure of such information may lead to
 22 competitive harm as Sonos’s competitors could use these details regarding Sonos’s source code to
 23 gain a competitive advantage in the marketplace with respect to their competing products. A less
 24 restrictive alternative than sealing said documents would not be sufficient because the
 25 information sought to be sealed is Sonos’s confidential business information and trade secrets and
 26 Google contends that this information is necessary to Google’s Reply. *See* declaration of Jocelyn
 27 Ma in support of Google’s administrative motion to seal. Dkt. 536-1, ¶ 4.
 28

7. Sonos's request is narrowly tailored to protect its confidential information.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 7th day of March, 2023 in Chicago, Illinois.

/s/ Cole B. Richter

COLE B. RICHTER